

REMARKS/ARGUMENTS

Status of the Claims

In the Office Action mailed November 26, 2004, claims 1-31 and 33-41 are pending. Claims 1-31 and 33-41 were rejected. Claims 1, 25, 31 and 38 have been amended. New claims 42-53 have been added. No new matter has been added. No claims have been cancelled. As such claims 1-31 and 33-55 remain pending.

This rejection is respectfully traversed. Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the following remarks.

Claim Rejections – 35. U.S.C. §102

The Examiner rejected claims 1-31 and 33-41 under 35 U.S.C. §102 as being anticipated by Ishikawa, *et al.* Claims 1, 25, 31 and 38 have been amended. Support for the amendments may be found at least in paragraph 46, 53, and throughout the specification and figures. In light of the following remarks, Applicants respectfully submit that these claims are allowable and that the rejection be withdrawn.

Ishikawa, *et al.*, discloses a method and apparatus for attaching one or more transponders to medical and non-medical products. (See Abstract). These products are tagged such that identifying data is contained in the memory of the transponders. (See Abstract).

The transponder disclosed in Ishikawa, *et al.*, is a memory containing device that stores identifying data as entered by the manufacturer prior to installation of the transponder on a particular device. (Column 4, lines 53-56). The identifying data may contain the identity of the manufacturer, date of manufacture, serial number, or any such identifying information as desired. (Column 4, lines 53-57).

In contrast, the present invention claims, “the tracking device is configured to monitor a presence and obtains a temperature reading of the item; and... automatically transmits the presence and temperature reading at discrete time intervals,” as recited in claims 1, and similarly in claims 25 and 31.

Ishikawa, *et al.*, repeatedly discloses that the transponder is used to provide identifying information such as a barcode. (Column 7, lines 65-66 and column 11, line 33). Ishikawa, *et al.*, however, differentiates their invention from a barcode that hospitals now use by stating that it would be difficult to obtain identifying information from these items once the packaging material containing the barcode is removed, whereas the transponder of the Ishikawa, *et al.*, invention may not be removed in a similar manner and the items can still be scanned to obtain the identifying information even after the packaging material has been discarded. (Column 12, lines 1-9). However, the concept of essentially providing identifying information is still the same with a barcode.

Therefore, the transponder disclosed by *Ishikawa, et al.*, is merely an identification device such as a barcode that requires a monitoring unit to scan the transponder and obtain the information. Thus, information may only be obtained if a monitoring unit actually scans and obtains the data. (Column 5, lines 3-5). Furthermore, Ishikawa, *et al.*, is silent as to whether the transponder continually sends information to the monitoring unit. Instead, the monitoring unit must actively scan the transponder to obtain the identifying information. (Column 5, lines 3-5).

Accordingly, it is respectfully submitted that Ishikawa, *et al.*, does not teach or suggest, *inter alia*, a tracking device that, “is configured to monitor a presence and obtains a temperature reading of the item; and a processing device electrically linked to the first tracking device that communicates with the tracking device, wherein the first tracking device automatically transmits the presence and temperature reading at discrete time intervals,” as recited in claim 1, or “tracking the presence of the item with the tracking device; taking the temperature of the item with the tracking device; automatically transmitting the presence and the temperature to a processing device; and maintaining information generated from tracking the presence of the item and taking the temperature of the item,” as stated in claim 25 and similarly in claims 31 and 38.

For anticipation under 35 U.S.C. §102 the reference must teach every aspect of the claimed invention either explicitly or implicitly. Any feature not directly taught must be inherently present (M.P.E.P. 706.02). Since each and every element, as set forth in the claim, is not found either expressly or inherently described as required by the M.P.E.P, Ishikawa, *et al.*, cannot be said to anticipate the present invention as recited in claims 1, 25, 31 and 38. Hence, withdrawal of the rejection is respectfully requested.

Claims 2-24 and 34 depend from independent claim 1; claims 26-30 and 40 depend from independent claim 25; and claims 33-37 and 41 depend from independent claim 31 and are patentable over the cited prior art for at least the same reasons as are independent claims 1, 25, 31 and 38. Accordingly, Applicants respectfully request that the rejection be withdrawn.


CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that this application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in even better condition for allowance, the Examiner is invited to contact the undersigned attorney at 202-861-1746 in an effort to resolve any matter still outstanding before issuing another action.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to our Docket No. 87289.2221.

Respectfully submitted,

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